

T H E

4

# Great Case Put Home

In some Modest

# Q U E R I E S

Humbly proposed and tendred to *Consideration*,

B Y

A true Lover of the *Protestant Religion*  
and *English Loyalty*.

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Πολλὰκι τοι κηπωρὸς ἀνὴρ καὶ ἀκαίριον εἶπε.

ECCLES. XI.

2. Set thy heart aright, and constantly endure, and make not haste in time of trouble.
6. Believe in the Lord, and he will help thee; order thy way aright, and trust in him.
7. Ye that fear the Lord, wait for his mercy, and go not aside lest ye fall.

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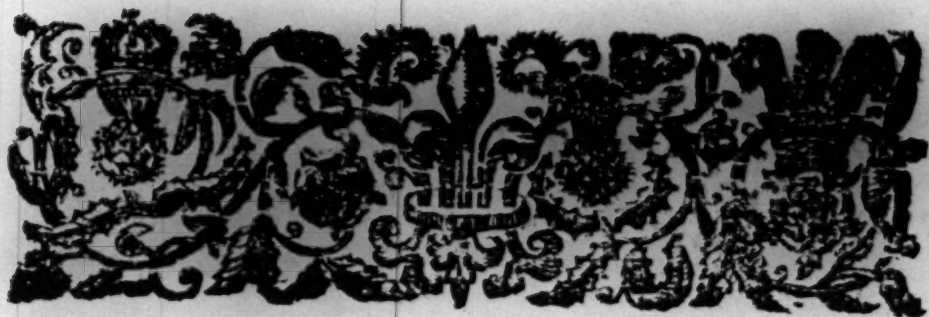
O X F O R D,

Printed for R. Davis, and are to be Sold by R. Taylor,

near Stationers hall London. 1681







TO THE  
READER.

READER,



*know, That what I am now going upon is a Subject beset with many and great Prejudices ; and such peradventure are the Heates and Animosities of some, that calm Reason will hardly find admittance. However, upon this Crisis, (being not sure, whether ever there may be an opportunity again ) in the silence of others*

To the Reader.

*more Able , I have adventured to express my honest thoughts (such , I am sure, they are in my Intendment ) whatever Censure they may undergoe from Biassed persons, who Govern themselves by Interest or Humour, by Fears and Jealousies, in those Things, wherein the Concerns of the Government and Nation require the weightiest Consideration, and the clearest Eviſtion of Reason and Argument.*

*Upon this account, I have thought fit to set forth this small Tract by way of Queries: it being a thing, would not so much become my Meanness, to be Positive. Only the Two first Things, which I take for granted, I suppose no honest English-man or true Protestant will deny me. As to the things debated, I have so set them down by Cross Questions, as they say Pro and Con, with that Evenness and Impartiality, that neither*



To the Reader.

*ther side can justly complain of me : and yet with that due Submission & Deference, that I leave the Decision of them, where I ought, at the feet of my Superiours. They are such Questions too, mostly of that comprehensiveness, that they will take-in the whole State, and may be both Inlarged in Themselves, and Extended also to all the minutest particularities of the Case. I could have brought many more; but These being the Principal and most Material, the Resolution and Issue of these will over-rule all Others of the like kind.*

*I must not leave this without a sincere Protestation, that I have not put Pen to Paper upon any sinister End or Design; but, with an upright Conscience towards God and towards Men, I have, according to my weakness, discharged my mind, in an humble sense of that Duty and Regard, I owe to all my Governours, (of whom the KING is supream,) and out of a hearty desire of my Conntries Weal.*

*Farewel.*







THE  
GREAT CASE  
PUT HOME.

**T**HE CASE of his R. H. being such as will be made an Eternal Obstruction to His Majesties Affairs, and such as never will by Declamation and *Harangue*, but by cool Debate and sober Reason be determined; I do in all humility propose that there are some things in the Case, that must be *granted*, others that may be *debated*.

The Things to be *Granted* are these two,

I.

*That the D. of Y. hath by proximity of Blood an undoubted Natural Right to inherit and succeed, if the King (whom God long preserve) should dy without Issue; this being an Hereditary, not an Elective Kingdom.*

B

A Quarry

A Quarry arising from hence is ;

How far *Positive Laws*, made or to be made, do or may, regulate, limit and modify, or null and make void a *Natural Right*, such as *Succession* in an Hereditary Kingdom is a Main one ?

## II.

*That true Christian Religion, at least the Protestant Religion, as it hath been profess'd in England, doth not pretend to preclude, debar or hinder the Right of Government, or so much as allow Subjects upon the account of Religion to intermeddle ; but presseth Obedience to all lawful Governors, whatever the Persons be.*

The Quarry from hence will be,

How far *Religion* in any Nation, at least how far the *Protestant Religion* in This, being so interwoven with the *Government* as it is, may, in case of a *Persecution* to arise from a *Successor*, be concern'd in providing beforehand for its own security ?

The Things, which may fall under *Debate*, are such as these.

## I.

*Whether an Heir of the Crown may not, whilst a Subject, by some Misdemeanor forfeit that Right, which Nature hath placed in him, to the Laws of the Country ? and whether the D. of Y. hath not so done, particularly by having (as it is strongly presum'd he hath) reconciled himself to the Church of Rome ?*

To



( II )

To this I ask ; *Whether* the Heir of the Crown his being a *Papist* (if really such) at any Rate, do in Law cause a Forfeiture of his Right ? and then, *Whether* a *Presumtive* Crime (be it what it will) can by Law take away the Right of any Subjects Estate? and *Whether* it be not hard measure for a *Prince* to be denied the common right of every *Subject*, when impleaded as a Criminal ? which is, that *Sentence* do not pass upon him, much less be put in *Execution* against him, till he be *Cited* and summon'd to appear and answer for himself, or be otherwise *Convicted* by due course of Law ?

II.

*Whether* the very *Constitution* of the English Laws, as they now stand, do not in the *Intent* and *Purport* of them, exclude a *Popish* Successor, as One, who 'tis presumed neither Will nor Can execute them ? seeing they do not allow a *Papist* to be so much as a *Justice of Peace*, a *Church-warden*, or a *Constable* ?

To this I make these Demands,

*Whether* there be not a vast difference betwixt an *Inferior Magistrate*, whose Place is a meer Trust, and a *Sovereign* invested into his Office by Right of Birth ? *Whether* a Distrust of Him, being still but matter of *Presumption*, ought to extinguish such a Right ? and *Whether* that very Distrust too may not be satisfied by Limitations and Concessions agreed upon with the Person concerned in the Succession ? and *Whether* the Word, Honor and Oath of such a Person, ought not among *Christians* to be looked upon as sufficient grounds of Belief and Assurance ? as it is usual in other Countries, where different *Religions* are professed ; it being a thing hardly practicable to lay any other *Tyes* upon a *Sovereign*, or to find out any *Expedient* of another nature, that may be consistent with *Majesty*.

## III.

*Whether (without any consideration of Law) the bare Fore-sight of great Inconveniencies or publick Mischiefs, which may possibly or probably, nay must necessarily, and certainly will befall a People upon the succession of the Right Heir into the Government, be not a warrantable reason for his Exclusion, to lay Him aside as if he were not, and to set up Another in His stead?*

Let another like Question be put ;

*If a Christian Prince coming rightfully to the Throne, and having for some time quietly sat therein, should afterward Apostatize from his Religion, and persecute the Professors of it : Whether such an one may by Scripture or Law be expelled and turned out of his Possession ? and, Whether the Case of Exclusion and Expulsion be not much-what the same ? and, Whether the Humor of some amongst Us may not be too like that of the Israelites, when for fear of Oppression they Revolted from the Successor to an Usurper ?*

## IV.

*Whether the Examples of our Fore-fathers, who have upon slighter occasions made several Breaches and Interruptions in the Succession, are not a good Warrant for Us at this time, who ly under such dismal and dreadful apprehensions, to do the like ? and Whether this will not be a legal Exclusion, which is fortified and confirmed by so many Precedents, since the Laws themselves are over-ruled and determined by Custom and Practice ?*

To which may be rejoined ;

*Whether it were in the power of our Fore-fathers, or be now in Ours by any Law (for *Id possumus, quod Jure possumus*)*



*mus*) to alter that form or frame of *Government*, to which we are *Born* and *Sworn* Subjects, and of which the *Succession* is a main essential Point? and by consequence, *Whether* it was not in them *Illegal* to lay aside at any time the rightful *Successor*? and *Whether* our following their *Example* in doing things *Unlawful*, can justify the *Illegality* of our actions? Further, though the *Body* of the *Nation* might be excused in their submission to such as were only *de facto* Kings, and were not *de jure* so; yet *Whether* Those, who abetted and assisted such Persons to get into the *Throne*, and deserted and opposed the *Lawful Heirs*, were not highly *Guilty*; as in the case of *King Stephen* and *Maud* the *Empress*? And lastly, However *Practice* may regulate the *Law* in things *Indifferent*, and in matters of smaller *Alloy*; yet *Whether* an unlawful *Practice* be not in it self a plain down-right violation of *Law*?

## V.

*Whether, upon the whole, the Exclusion of the D. together with the Union of the Protestants, be not the most effectual, if not the only Means of securing our Religion, and keeping out Popery? and consequently in our Case, there being (as We say) no other Expedient, Whether absolute invincible Necessity which knows no Law, do's not inforce us by any means to preserve our selves?*

To this may be returned;

If the *King*, beside his *Brotherly Affection*, could be satisfied in *Law* and *Conscience* (seeing that an *Hereditary Kingdom* is *Feodum non alienabile*, as the *Civilians* term it) to comply with, and to give his consent to the *Excluding Bill*; yet, *Whether* the *Exclusion* of the *D.* will not probably draw as ill Consequents after it, and involve the *Nation* in as great *Hazards*, as the *Admission* of him would possibly do? and, *Whether* the *Uniting* of *Protestants* (if it be only into *Immunities*, and not into methods of *Worship*) be not in effect to  
establisb.

establish and legalize *Schism* in all its divisions ; and by providing a secure shelter for *Romish Priests* and *Emissaries* among our *Sects* (where no *Test* shall reach them) it will not prove a very likely Means, in time, of betraying us to *Popery* ? most of those *Sects* in these late licentious Times, having been Influenced and Principled by that *Party*, who have made the greatest Advantages to their own Hopes from our *Divisions* : which by such a *Comprehension*, will be so far from being *United* to *Us*, or among *Themselves*, that they will be *Established* apart and severally by *Law*, and pass in short time for the most considerable part of the *National Religion* ? And as to *Necessity*, the last Refuge ; *Whether*, let our Circumstances be what they will, there can be any necessity laid upon any man to Sin, to do Evil ? and though *Self-preservation* be the great principle of Nature, *whether* it ought to be indeavored by unlawful indirect means ; since our Savior tells us, that *He that will save his life, in that manner, shall loose it ?* and *Whether* the *Apostles* Rule in all dubious and hazardous Cases, be not best and safest for *Christians* to follow, *Not to do evil, that good may come thereof ?*

The Sum of All is this ;

That this *Case of Succession*, though it seem directly to cast an evil Aspect upon *Religion* and the *Protestant Cause* amongst us, yet really and ultimately it resolves it self into a *Civil Grievance*, as that which may touch *Life, Liberty, Property, &c.* by bringing in *Arbitrary Power* along with it, which *Superstition* is too apt to do. Wherefore it were to be Wished, That some of the most Learned in both Faculties of *Law* and *Divinity* might be consulted with, and required to give their Judgment. For if *Henry* the Eighth, who was not over-curious to govern himself by other mens Opinion and Advice, did think fit to propose the *Divorce* of the *Queen*, who had been his Brothers Wife, to several *Universities, &c.* and not to determin the matter without such a

Con-



*Consultation:* How much more will it become the Wisdom of a Nation to use the like leisurely and tender Care in so Weighty a matter as the disabling the *Inheritance* of the Crown may prove?

May a merciful God, whose immediate Interposal alone can heal our Distempers, and rescue us from those Dangers, we are too forward to bring upon our selves, direct and prosper the Publick Counsels, and may he ever preserve our Gracious Sovereign, whose Life will be our best Security: and may We, as becomes Loyal and dutiful Subjects, endeavor to make his Life Comfortable (that it may be Long) by supplying proportionable Aids to our Necessities at Home, and by giving suitable Incouragements to our Alliances abroad: which as it will be for His Majesties Honor, so will it be no less for Our own present Security.

F I N I S.

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